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REMARKS

For convenience, the Notice is reproduced below, with responses interlineated.

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CONFIRMATION NO. 3019  
FORMALITIES LETTER

~OC000000007626754.

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[1] This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 3~ (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable format (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821 (e), 1.821 (f), 1.821 (g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

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[2] The compact disc(s) submitted fail to comply with 37 CFR 1.52(e) in that they contain non-ASCII files. A new duplicate set of compact discs with only ASCII files is required. Any replacement compact disc submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set. If a directory of the disc could be printed, it is attached and non-ASCII files are marked on the directory listing.

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This requirement is respectfully traversed because the CD submitted originally is in ASCII format<sup>1</sup>. It is urged that no replacement is required. If this requirement is repeated, specific grounds for the objection are requested. However, on July 12, Mr. Diggs of IPE helpfully advised by telephone the one of the two CDs submitted with the application was corrupted and part of it could not be read.

<sup>1</sup> The CD is opened conventionally, by double-clicking: MyComputer[D [or respective CD drive}] then select README which instructs the user to associate Wordpad. Later Programs or Signature\_s can be similarly selected and read. The CD contains the directory listing program/size/date.

Therefore three replacement CDs are enclosed herewith.

*[3] This application is objected to because it contains a data file on CD-ROM/CD-R, however, the transmittal letter does not list for each compact disc, the machine format, the operating system compatibility, a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc as required by 37 CFR 1.52(e)(3). A statement listing the required information is required. Additionally, the disc(s) is not identified in the paper portion of the specification with a listing of all of the files contained on the disc. When portions of an application are contained on a compact disc, the paper portion of the specification must identify the compact disc(s) and list the files including name, file size, and creation date on each of the compact discs. See 37 CFR 1.52(e). Applicant(s) are required to amend the specification to identify each disc and the files contained on the disc including the file name, file size, and file creation date.*

The undersigned attorney certifies that each of the enclosed replacement CDs (labeled respectively; "1", "2", and "CRF") is identical in content to the two CDs submitted with the application. Each CD does contain what might be termed a sequence listing. However, the inventor who prepared the CD was in Asia for several months and the other inventors were not able to reformat the CD. It is requested that this requirement was not proper because the format was always in ASCII, and no mention of difficulty in reading the CD or of corruption was received by applicants until the above mentioned very helpful telephone discussion with Mr. Diggs.

**For questions regarding compliance to these requirements, please contact:**

• **For Rules Interpretation, call (703) 308-216**

• **To Purchase Patentin Software, call (703) 306-2600**

**For Patentin Software Program help, call (703) 306 4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)**

*A copy of this notice MUST be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

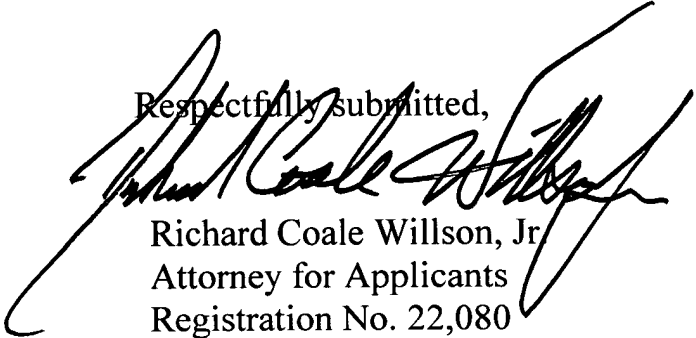
If necessary, it is authorized that Deposit Account 20-336 be charged in the amount of \$200.00 for "Fee Code 116/216 Extension within the second month." However, this is paid under protest as the USPTO did not, until July 9, 2002, provide any notice that the response filed May 27, 2002 was deemed inadequate, and did not until July 12 indicate any difficulty in USSN 10/057,270; Confirmation 3019; USPTO Customer No. 26830 Docket 010AUS

reading one of the CDs.. No delay of the prosecution has resulted. There  
seems no justification for requiring applicant to pay for the time required for  
deliberation and reply by the USPTO IPER. A crediting of Deposit Account  
170 20-336 for \$200.00 is requested.

Any necessary other (small entity) charges can be charged to USPTO  
Deposit Account 20-336 of Technology Licensing Co. LLC.  
Correspondence may be addressed to Customer No. 26830.

175 The Examiner is especially invited to telephone Applicants' Attorney if that  
would expedite commencement of prosecution and disposal of this  
Application.

Respectfully submitted,

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Enclosures:

- ✓ Copy of Notice
- ✓ Listing of Machine Format, OS, files, sizes, creation dates
- 195 ✓ ~~Three~~ CDs labeled labeled respectively; "1", "2", and ~~"SRP"~~ with contents  
and burn reports

200 Deleted per Mr. Diggs  
because no bio-organism  
is claimed. 12/6/02

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